

AMENDED IN SENATE JULY 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 842**

**Introduced by Assembly Member Vargas**

February 20, 2003

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An act to amend Sections 11018.8, 11018.9, and 11024 of, and to add Section 11003.6 to, the Business and Professions Code, and to amend Sections 1689.5 and 1689.24 of the Civil Code, relating to time-share estates.

LEGISLATIVE COUNSEL'S DIGEST

AB 842, as amended, Vargas. Time-share estates.

(1) Existing law provides that a person who has made an offer to purchase a time-share estate or time-share use in a time-share project, as defined, has the right to rescind a contract resulting from the acceptance of the offer until midnight of the 3rd calendar day, as specified.

This bill would provide that a person has the right to rescind a time-share estate, time-share use, incidental benefit, or any right under an exchange program, until midnight of the 7th calendar day, and make related rescission and notice provisions applicable thereto, as specified.

This bill would define “short-term product” to mean a right to use structural overnight dwelling accommodations on a one-time or recurring basis for any period that does not exceed 30 days for each stay and for a term of less than 5 years. The bill would provide that a person has the right to rescind a contract to purchase a short-term product, until midnight of the 7th calendar day, as specified. The bill would also require the seller of a short-term product to conspicuously disclose to

any purchaser the right to rescind, and to place any purchase money into an independent escrow depository, a bond, or make an alternative arrangement, as specified, to secure the right of the purchaser to rescind. The bill would provide a cause of action for a violation of these provisions, and permit recovery of damages and reasonable attorneys' fees and costs.

(2) Existing law regulates the content and effect of home solicitation contracts or offers, as defined, and seminar sales solicitation contracts or offers, as defined. Existing law defines goods and services for the purposes of these provisions, excepting from these definitions specified items and activities.

This bill would except from the definition of home solicitation contract or offer and seminar sales solicitation contract or offer, and from their respective definitions of goods and services, a contract or offer to purchase a time-share estate or a time-share use in a time-share project, as defined, if certain conditions apply, as specified, and any goods or services that are offered as part of, or incidental to, a time-share estate or a time-share use in a time-share project, including, an exchange program or incidental benefit, as defined, if certain conditions apply, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11003.6 is added to the Business and  
2 Professions Code, to read:  
3 11003.6. (a) ~~(1)~~—A “short-term product” is a right to use  
4 structural overnight dwelling accommodations on a one-time or  
5 recurring basis for a period or periods not to exceed 30 days ~~for~~  
6 ~~each~~ per stay and for a term of less than five years:  
7 ~~(2) A contract to purchase a short-term product is subject to this~~  
8 ~~section if it does the following:~~  
9 ~~(A) Includes, which includes~~ an agreement that all or a portion  
10 of the consideration paid by a person for the short-term product  
11 will be applied to or credited against the price of a future purchase  
12 of a ~~timeshare~~ time-share estate or time-share use in a time-share  
13 project, as defined in Sections 11003.5 and 11004.5, or that the  
14 cost of a future purchase of a time-share interest will be fixed or  
15 locked in at a specified price.

1 ~~(B) Is executed by the person on the same day or within seven~~  
2 ~~calendar days after that person attends a sales presentation~~  
3 ~~regarding the offering of a time-share estate or time-share use in~~  
4 ~~a time-share project.~~

5 (b) A person who has entered into a contract to purchase a  
6 short-term product shall have the right to rescind the contract until  
7 midnight of the seventh calendar day following the day on which  
8 the contract is first made, ~~and is in which event the purchaser shall~~  
9 ~~be entitled to the return~~ a refund of 100 percent of the  
10 consideration paid under the contract, without deduction.

11 (c) A person who has entered into a contract to purchase a  
12 short-term product ~~also has~~ *shall also have* the right to rescind the  
13 contract ~~no~~ *and to receive a refund of 100 percent of the*  
14 *consideration paid under the contract, without deduction, not later*  
15 *than 15 days after the last day specified under the short-term*  
16 *product program contract for making reservations, if the*  
17 *purchaser, after following the procedures established by the seller*  
18 *procedures for reserving the use of the short-term product*  
19 *accommodations clearly and conspicuously disclosed in the*  
20 *contract to purchase the short-term product, and after making*  
21 ~~three~~ *two* separate attempts to obtain a reservation, is unsuccessful  
22 in obtaining a written confirmed reservation from the seller of the  
23 short-term product accommodations for a use period. ~~An~~  
24 ~~unsuccessful attempt to obtain a written confirmed reservation~~  
25 ~~does not include an attempt to obtain a reservation that is within~~  
26 ~~two weeks of New Year's Day, Washington's Birthday, Memorial~~  
27 ~~Day, Independence Day, Labor Day, Columbus Day, Veterans'~~  
28 ~~Day, Thanksgiving Day, or Christmas Day, or other holiday or~~  
29 ~~special event designated by the seller, and provided further that the~~  
30 ~~third attempt was made at least 90 days prior to the expiration of~~  
31 ~~the term of the short-term product.~~

32 (1) *An unsuccessful attempt to obtain a written confirmed*  
33 *reservation does not include an attempt to obtain a reservation that*  
34 *is within a period of time, if any, that is clearly disclosed*  
35 *graphically in a calendar attached to the contract as an exhibit, as*  
36 *a period that is not available for reservation.*

37 (2) *Procedures for reserving the use of a short-term product*  
38 *accommodation may not include any procedure that is designed to,*  
39 *or has the effect of, creating unreasonable procedural barriers to*  
40 *the process of reserving a short-term product accommodation. Any*

1 reservation procedure shall be subject to approval by the  
2 commissioner.

3 (d) The seller of a short-term product shall clearly and  
4 conspicuously disclose, *in writing*, to all purchasers the right of  
5 rescission provided for in subdivisions (b) and (c). The

6 (1) The contract for the purchase of a short-term product,  
7 which is subject to rescission as provided in subdivisions (b) and  
8 (c), shall include the date of the contract and shall contain, in  
9 immediate proximity to the space reserved for the signature of the  
10 purchaser, a conspicuous statement in a size equal to at least  
11 ~~10-point~~ 12-point capitalized boldface type, as follows:

12  
13 “YOU HAVE THE RIGHT TO CANCEL THIS  
14 CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF  
15 THE SEVENTH (7TH) CALENDAR DAY AFTER THE  
16 DATE OF THIS CONTRACT FOR A FULL REFUND.  
17 YOU ALSO HAVE THE RIGHT TO CANCEL THIS  
18 CONTRACT AND OBTAIN A REFUND IF YOU ARE  
19 ~~UNABLE, AFTER THREE UNSUCCESSFUL, AFTER~~  
20 TWO (2) ATTEMPTS DURING THE TERM OF YOUR  
21 CONTRACT, TO OBTAIN A WRITTEN CONFIRMED  
22 RESERVATION FOR THE USE OF THE  
23 ACCOMMODATIONS SPECIFIED IN YOUR  
24 CONTRACT ~~AFTER FOLLOWING THE RESERVATION~~  
25 ~~RULES SPECIFIED OR REFERRED TO IN YOUR~~  
26 ~~CONTRACT. YOU MAY EXERCISE YOUR RIGHT TO~~  
27 ~~CANCEL BY TELEGRAPHIC COMMUNICATION,~~  
28 ~~MAIL, OR OTHER WRITTEN NOTICE TO THE~~  
29 ~~FOLLOWING ADDRESS: [SPECIFIC CONTACT~~  
30 ~~INFORMATION].” CONTRACT, IF YOU FOLLOW THE~~  
31 ~~RESERVATION RULES SPECIFIED IN YOUR CONTRACT~~  
32 ~~AND IF YOU CANCEL YOUR CONTRACT NOT LATER~~  
33 ~~THAN FIFTEEN (15) DAYS AFTER THE LAST DAY~~  
34 ~~SPECIFIED IN YOUR CONTRACT FOR RESERVING THE~~  
35 ~~USE OF AN ACCOMMODATION. YOU MAY EXERCISE~~  
36 ~~YOUR RIGHT TO CANCEL BY SENDING A FAX,~~  
37 ~~TELEGRAPH, OR BY DEPOSIT, FIRST-CLASS POSTAGE~~  
38 ~~PREPAID, INTO THE UNITED STATES MAIL TO THE~~  
39 ~~FOLLOWING ADDRESS: [SPECIFIC CONTACT~~

1 INFORMATION]”

2  
3 (2) *Notwithstanding the time periods within which a purchaser*  
4 *of a short-term product must exercise the cancellation rights*  
5 *specified in subdivisions (b) and (c), the time periods may not*  
6 *commence until the seller has given the written notice required by*  
7 *this subdivision.*

8 (e) A purchaser of a short-term product may exercise the right  
9 of rescission provided for in ~~subdivision (b) or subdivisions (b)~~  
10 *and (c)* by giving written notice to the owner of the short-term  
11 product as specified in subdivision (d). The seller of the short-term  
12 product shall cause any deposit given by a purchaser who has  
13 exercised the right to rescind described in ~~subdivision (b) or~~  
14 *subdivisions (b) and (c)* to be returned to the purchaser ~~no~~ *not* later  
15 than the last to occur of 10 business days following receipt of the  
16 purchaser’s written notice of rescission, or five business days  
17 following the date upon which any deposit becomes good and  
18 immediately available funds.

19 (f) A seller of a short-term product, *the contract for which is*  
20 *subject to rescission under subdivisions (b) and (c)*, shall do any  
21 of the following ~~to secure the seller’s obligation to return the~~  
22 ~~purchase money funds:~~

23 (1) Place any purchase money funds received from the  
24 purchaser of a short-term product into an independent escrow  
25 depository acceptable to the commissioner until ~~either~~ the  
26 seven-day period for rescission described in subdivision (b) has  
27 expired and the purchaser *of the short-term product* has received  
28 a written confirmed reservation from the seller *of the short-term*  
29 *product accommodations* for a use period as described in  
30 subdivision (c), or the period for making the reservations has  
31 expired pursuant to the short-term product contract, which date  
32 may not be ~~any earlier than 90~~ *earlier than 60* days prior to the  
33 expiration of the term of the short-term product as described in  
34 subdivision (c).

35 (2) Post a bond to secure the return of ~~the~~ *a* purchaser’s  
36 purchase money funds in a form and in an amount prescribed by  
37 the commissioner.

38 (3) Make alternative arrangements satisfactory to the  
39 commissioner *to secure the owner’s obligation to return the*  
40 *purchase money funds.*

(g) *The contract for the purchase of a short-term product that is subject to rescission as provided in subdivisions (b) and (c), and any written notice that is required by subdivision (d), shall be translated in the same language as principally used in the oral sales presentation for the short-term product.*

(1) *This subdivision does not apply to any person who negotiates the terms of the contract through his or her own interpreter. As used in this subdivision, “his or her own interpreter” means a person, not a minor, able to speak fluently and read with full understanding both the English language and the language principally used in the sales presentation, and who is not employed by, or whose service is made available through, the seller of the short-term product that is subject to rescission under subdivisions (b) and (c).*

(2) *The terms of the contract that is executed in the English language shall determine the rights and obligations of the parties. However, the translation of the contract and the disclosures required by subdivision (d) into the language principally used in the oral sales presentation for the short-term product shall be admissible in evidence only to show that no contract was entered into because of a substantial difference in the material terms and conditions of the contract and the translation.*

(h) *A purchaser may bring an action for recovery of actual damages or other equitable relief against the seller of a short-term product for a violation of this section. Upon finding a violation of this section, the court shall award rescission of the contract, if the purchaser pleads rescission. The court may also award any of the following:*

(1) *All damages actually suffered by a purchaser.*

(2) *Reasonable ~~attorneys~~<sup>2</sup> attorney’s fees and costs to the prevailing party.*

(3) *Other relief deemed appropriate to carry out the intent of this section.*

SEC. 2. *Section 11018.8 of the Business and Professions Code is amended to read:*

11018.8. (a) *Notwithstanding Section 11004.5 or 11018, or subdivisions (d) and (e) of Section 11018.5, an exchange program is not a part of a time-share project offering, except as provided in this section ~~or~~ and Section 11024, and is not subject to the*

1 provisions of this part nor to regulations of the commissioner  
2 adopted pursuant thereto.

3 (b) If a purchaser of an interest in a time-share project is offered  
4 the opportunity to become a member of an exchange program, the  
5 subdivider shall include with the application for a public report the  
6 following information:

7 (1) The name and address of the exchange company.

8 (2) A copy of the form of the contract between the purchaser  
9 and the exchange company.

10 (3) A copy of any materials that will be used in promoting the  
11 exchange program.

12 (4) Whether the exchange company or any of its officers or  
13 directors have any legal or beneficial interest in any developer,  
14 seller, or managing entity for any time-share project participating  
15 in the exchange program and, if so, the identity of the time-share  
16 project and the nature of the interest.

17 (5) Whether the purchaser's participation in the exchange  
18 program is dependent upon the continued affiliation of the  
19 applicable time-share project with the exchange program.

20 (6) A fair and accurate description of the terms and conditions  
21 of the purchaser's contractual relationship with the exchange  
22 program and the procedure by which changes to the contract may  
23 be made.

24 (7) A fair and accurate description of the procedures necessary  
25 to qualify for and effectuate exchanges.

26 (8) Whether exchanges are arranged on a space-available basis  
27 and whether any guarantees of fulfillment of specific requests for  
28 exchanges are made by the exchange program.

29 (9) Whether and under what circumstances an owner of a  
30 time-share interest, in dealing with the exchange program, may  
31 lose the right to use and occupy an accommodation of the  
32 time-share project during a reserved use period with respect to any  
33 property applied for exchange without his or her being provided  
34 with substitute accommodations by the exchange program.

35 (10) The standard fees for participation by owners in the  
36 exchange program, a statement of whether any of those fees may  
37 be altered by the exchange company, and the circumstances under  
38 which alterations may be made.

39 (11) The name and address of the site of each accommodation  
40 or facility included within any time-share project.



1 (12) Any other information as the subdivider elects to include.

2 SEC. 3. Section 11018.9 of the Business and Professions  
3 Code is amended to read:

4 11018.9. (a) Notwithstanding subdivision (g) of Section  
5 11004.5, Section 11018, ~~and~~ *or* subdivisions (d) and (e) of Section  
6 11018.5, an incidental benefit is not a part of the offering, and  
7 except as provided in this section ~~or~~ *and* Section 11024, is not  
8 subject to the provisions of this part nor to regulations of the  
9 commissioner adopted pursuant thereto.

10 (b) If a purchaser of an interest in a time-share project is offered  
11 the opportunity to acquire an incidental benefit in connection with  
12 a time-share interest, the subdivider shall include with the  
13 application for a public report a description of each incidental  
14 benefit, including the nature and amount of any user fees or costs  
15 associated therewith, and, any restrictions upon use or availability.

16 (c) Incidental benefits may only be offered if:

17 (1) The continued availability of any incidental benefit for the  
18 use and enjoyment of owners of time-share interests is not  
19 necessary in order for any accommodation or facility that is not an  
20 incidental benefit to be used, occupied, or enjoyed by the owners  
21 in a manner consistent in all material respects with the plan of use  
22 and enjoyment set forth in the time-share documents or  
23 represented by or on behalf of the subdivider, in writing in a  
24 purchaser's purchase contract, in the permit, or in any  
25 advertisement or promotion, or otherwise.

26 (2) The use of or participation in the incidental benefit by an  
27 owner of a time-share interest is completely voluntary, and  
28 payment of any fee or other cost associated with the incidental  
29 benefit is required only upon that use or participation.

30 (3) No costs of acquisition, operation, maintenance, or repair  
31 of the incidental benefit are passed on to purchasers of time-share  
32 interests in the time-share project as common expenses of the  
33 time-share project.

34 (d) The commissioner may issue a disclosure statement  
35 relating to any incidental benefits. A copy of the disclosure  
36 statement of the commissioner, when issued, shall be given to the  
37 prospective purchaser by the owner, subdivider, or agent prior to  
38 the execution of a binding contract or agreement for the sale of any  
39 interest in the time-share project.



SEC. 4. Section 11024 of the Business and Professions Code is amended to read:

11024. (a) A person who has made an offer to purchase (1) a time-share estate or time-share use in a time-share project, as defined in Section 11003.5, (2) any incidental benefit, ~~made as defined in Section 11003.5, made on the same day or~~ within seven calendar days after the person attended a sales presentation for a time-share estate or time-share use in a time-share project, or (3) any right under an exchange program, ~~made as defined in Section 11003.5, made (A) on the same day or~~ within seven calendar days after the person attended a sales presentation ~~or for a time-share estate or time-share use in a time-share project, or (B) at any time other than on the same day or within seven calendar days after the person has attended a sales presentation for a time-share estate or time-share use in a time-share project,~~ if the total amount of the contract when divided by the number of years of the contract exceeds two hundred fifty dollars (\$250), shall have the right to rescind any contract resulting from the acceptance of the offer until midnight of the seventh calendar day following the day on which the prospective purchaser executed the offer to purchase.

(b) *The exercise of the rescission right for the purchase of a time-share estate or time-share use in a time-share project, as specified in paragraph (1) of subdivision (a), shall also be deemed to constitute the exercise of the rescission right specified for an incidental benefit or a right under an exchange program, as specified in paragraph (2) of subdivision (a) or subparagraph (A) of paragraph (3) of subdivision (a), without further action by the purchaser.* Upon receipt of a rescission notice from a purchaser as specified in subdivision (a), the owner of a subdivision, as defined in subdivision (e) of Section 11004.5, shall immediately notify the owner of any incidental benefit program or exchange program specified in *paragraph (2) of, or subparagraph (A) of paragraph (3) of,* subdivision (a), that the purchaser has exercised the rescission rights specified in subdivision (a).

(c) Any notice by a purchaser of the exercise of the rescission rights specified in subdivision (a) shall be in writing and shall be ~~effective upon transmission via fax, e-mail, or telegraph, or upon deposit, first-class postage prepaid, into the United States mail to~~ *effective upon sending a fax, e-mail, or telegraph, or by deposit, first-class postage prepaid, into the United States mail to one of the*

addresses that shall be specified in the contract, or alternatively specified in a form set forth in a regulation adopted by the commissioner.

(d) The owner of a subdivision, as defined in subdivision (e) of Section 11004.5, or the owner of an incidental benefit or exchange program specified in *paragraph (2) or (3) of subdivision (a)*, if the owner of the subdivision is not also the owner or the agent of the owner of the incidental benefit or exchange program, shall:

(1) Cause any deposit for the time-share use or time-share estate in a time-share project, incidental benefit, or exchange program given by a purchaser who has exercised the right to rescind described in subdivision (a), to be returned to the purchaser ~~no~~ *not* later than the last to occur of 10 business days following receipt of the purchaser's written notice of rescission, or five business days following the date upon which any deposit becomes good and immediately available funds.

(2) In accordance with the regulations adopted by the commissioner, clearly and conspicuously disclose to all prospective purchasers of time-share interests the right of rescission provided for in subdivision (a), and furnish to each purchaser a form for the exercise of the right of rescission. *Disclosure of the rescission right specified in paragraph (1) of subdivision (a) shall also be deemed to constitute disclosure of the rescission right specified in paragraph (2) of subdivision (a) or subparagraph (A) of paragraph (3) of subdivision (a).* The offer to purchase described in subdivision (a) shall include the date the purchaser executes the offer to purchase and shall contain, in immediate proximity to the space reserved for the signature of the purchaser, a conspicuous statement in a size equal to at least ~~10-point~~ *12-point* boldface type, as follows:

(A) *With respect to disclosure of the rescission rights specified in paragraph (1) or (2) of subdivision (a), or subparagraph (A) of paragraph (3) of subdivision (a):*

(B) *With respect to disclosure of the rescission rights specified in subparagraph (B) of paragraph (3) of subdivision (a):*

“YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE SEVENTH CALENDAR DAY AFTER THE DATE OF THIS CONTRACT. SEE THE NOTICE OF RESCISSION RIGHTS FORM

1 ATTACHED TO THE FRONT PAGE OF THE CALIFORNIA  
2 PUBLIC REPORT FOR AN EXPLANATION OF THIS  
3 RIGHT.”

4 “YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT  
5 ANY TIME PRIOR TO MIDNIGHT OF THE SEVENTH  
6 CALENDAR DAY AFTER THE DATE OF THIS CONTRACT.  
7 SEE THE NOTICE OF RESCISSION RIGHTS FORM  
8 ATTACHED TO THIS CONTRACT FOR AN EXPLANATION  
9 OF THIS RIGHT.”

10  
11 ~~(e) Nothing in subdivision (d) shall prevent the substitution of~~  
12 ~~a longer rescission period and notice thereof.~~

13 ~~(f) No part of this section shall be construed to allow a~~  
14 ~~purchaser to waive his or her right of rescission before expiration~~  
15 ~~of the time set forth in subdivision (a).~~

16 ~~(g)~~  
17 *(e) Notwithstanding the time periods within which a purchaser*  
18 *must exercise the cancellation rights specified in subdivision (a),*  
19 *the time periods may not commence until the seller has given the*  
20 *written notice to the purchaser required in paragraph (2) of*  
21 *subdivision (d).*

22 *(f) Nothing in subdivision (d) shall prevent the substitution of*  
23 *a longer rescission period, and notice thereof, in compliance with*  
24 *this rescission and disclosure requirement.*

25 *(g) Any contract or offer to purchase an interest that is subject*  
26 *to rescission under subdivision (a), and any written notice that is*  
27 *required by subdivision (d), shall be written in the same language*  
28 *as principally used in the oral sales presentation for the interest.*

29 *(1) This subdivision does not apply to any person who*  
30 *negotiates the terms of the contract or offer to purchase an interest*  
31 *through his or her own interpreter. As used in this subdivision, “his*  
32 *or her own interpreter” means a person, not a minor, able to speak*  
33 *fluently and read with full understanding both the English*  
34 *language and the language principally used in the sales*  
35 *presentation, and who is not employed by, or whose service is made*  
36 *available through, the seller of the interest that is subject to*  
37 *rescission under subdivision (a).*

38 *(2) The terms of the contract or offer to purchase that is*  
39 *executed in the English language shall determine the rights and*  
40 *obligations of the parties. However, the translation of the contract*

1 *or the disclosures required by subdivision (d) into the language*  
2 *principally used in the oral sales presentation for the interest shall*  
3 *be admissible in evidence only to show that no contract was*  
4 *entered into because of a substantial difference in the material*  
5 *terms and conditions of the contract and the translation.*

6 (h) Any certificate bearing the signature of the purchaser of a  
7 time-share estate or time-share use in a time-share project, as  
8 defined in Section 11003.5, which contains an adequate  
9 description of the interests sold and a statement by the purchaser  
10 that he or she has not exercised the right of rescission within the  
11 time limit set forth herein shall constitute conclusive evidence that  
12 the right of rescission has not been exercised in any matter  
13 involving the rights of a third party who has acted in good faith in  
14 reliance upon representations in the certificate.

15 ~~(h)~~

16 (i) *No part of this section may be construed to allow a*  
17 *purchaser to waive his or her right of rescission before expiration*  
18 *of the time set forth in subdivision (a).*

19 (j) A purchaser may bring an action for recovery of actual  
20 damages or other equitable relief against the owner of a  
21 subdivision, as defined in subdivision (e) of Section 11004.5, or  
22 his or her agent, for a violation of this section. Upon finding a  
23 violation of this section, the court shall award rescission of the  
24 contract, if the purchaser pleads rescission. The court may also  
25 award:

26 (1) All damages actually suffered by a purchaser.

27 (2) Reasonable attorney's fees and costs to the prevailing  
28 purchaser.

29 (3) Other relief deemed appropriate to carry out the intent of  
30 this section.

31 SEC. 5. Section 1689.5 of the Civil Code is amended to read:  
32 1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and  
33 in Section 1689.14:

34 (a) "Home solicitation contract or offer" means any contract,  
35 whether single or multiple, or any offer which is subject to  
36 approval, for the sale, lease, or rental of goods or services or both,  
37 made at other than appropriate trade premises in an amount of  
38 twenty-five dollars (\$25) or more, including any interest or service  
39 charges. "Home solicitation contract *or offer*" does not include  
40 any contract under which the buyer has the right to rescind

1 pursuant to Title 1, Chapter 2, Section 125 of the Federal  
 2 Consumer Credit Protection Act (P.L. 90-321) and the regulations  
 3 promulgated pursuant thereto, *and does not include any contract*  
 4 *or offer to purchase a time-share estate or time-share use in a*  
 5 *time-share project, as defined in Section 11003.5 of the Business*  
 6 *and Professions Code, if the time-share project consists of 12 or*  
 7 *more time-share estates or time-share uses, is or will be improved*  
 8 *with structural dwelling places, and if the time-share estates or*  
 9 *time-share uses have terms of five years or more, nor does it*  
 10 *include any contract or offer to purchase a good or service that is*  
 11 *an exchange program, as defined in Section 11003.5 of the*  
 12 *Business and Professions Code, nor to any contract or offer to*  
 13 *purchase a good or service that is an incidental benefit, as defined*  
 14 *in Section 11003.5 of the Business and Professions Code, if the*  
 15 *contract for the incidental benefit is subject to the provisions of*  
 16 *Section 11024 of the Business and Professions Code, or any*  
 17 contract for repair services with a contractor who is duly licensed  
 18 pursuant to Chapter 9 (commencing with Section 7000) of  
 19 Division 3 of the Business and Professions Code, if all of the  
 20 following apply:

21 (1) The contract price is less than one hundred dollars (\$100).

22 (2) The negotiation between the parties was initiated by the  
 23 prospective buyer.

24 (3) The contract contains a written and dated statement signed  
 25 by the prospective buyer stating that the negotiation between the  
 26 parties was initiated by the prospective buyer.

27 (b) “Appropriate trade premises” means premises where  
 28 either the owner or seller normally carries on a business, or where  
 29 goods are normally offered or exposed for sale in the course of a  
 30 business carried on at those premises.

31 (c) “Goods” means tangible chattels bought for use primarily  
 32 for personal, family, or household purposes, including certificates  
 33 or coupons exchangeable for these goods, and including goods  
 34 that, at the time of the sale or subsequently, are to be so affixed to  
 35 real property as to become a part of the real property whether or  
 36 not severable therefrom, but does not include any vehicle required  
 37 to be registered under the Vehicle Code, nor any goods sold with  
 38 this vehicle if sold under a contract governed by Section 2982, and  
 39 does not include any mobilehome, as defined in Section 18008 of  
 40 the Health and Safety Code, nor any goods sold with this

1 mobilehome if either are sold under a contract subject to Section  
2 18036.5 of the Health and Safety Code.

3 (d) “Services” means work, labor and services, including, but  
4 not limited to, services furnished in connection with the repair,  
5 restoration, alteration, or improvement of residential premises, or  
6 services furnished in connection with the sale or repair of goods  
7 as defined in Section 1802.1, and courses of instruction, regardless  
8 of the purpose for which they are taken, but does not include the  
9 services of attorneys, real estate brokers and salesmen, securities  
10 dealers or investment counselors, physicians, optometrists, or  
11 dentists, nor financial services offered by banks, savings  
12 institutions, credit unions, industrial loan companies, personal  
13 property brokers, consumer finance lenders, or commercial  
14 finance lenders, organized pursuant to state or federal law, that are  
15 not connected with the sale of goods or services, as defined herein,  
16 nor the sale of insurance that is not connected with the sale of goods  
17 or services as defined herein, nor services in connection with the  
18 sale or installation of mobilehomes or of goods sold with a  
19 mobilehome if either are sold or installed under a contract subject  
20 to Section 18036.5 of the Health and Safety Code, nor services for  
21 which the tariffs, rates, charges, costs, or expenses, including in  
22 each instance the time sale price, is required by law to be filed with  
23 and approved by the federal government or any official,  
24 department, division, commission, or agency of the United States  
25 or of the state.

26 (e) “Business day” means any calendar day except Sunday, or  
27 the following business holidays: New Year’s Day, Washington’s  
28 Birthday, Memorial Day, Independence Day, Labor Day,  
29 Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas  
30 Day.

31 ~~(f) Nothing within the meaning of any definition in this section~~  
32 ~~applies to any contract or offer to purchase a time-share estate or~~  
33 ~~time-share use in a time-share project, as defined in Section~~  
34 ~~11003.5 of the Business and Professions Code, if the time-share~~  
35 ~~project consists of 12 or more time-share estates or time-share~~  
36 ~~uses, is or will be improved with structural dwelling places, and the~~  
37 ~~time-share estates or uses have terms of five years or more, nor to~~  
38 ~~any contract or offer to purchase a good or service that is an~~  
39 ~~exchange program or an incidental benefit, as defined in Section~~  
40 ~~11003.5 of the Business and Professions Code.~~



SEC. 6. Section 1689.24 of the Civil Code is amended to read:  
1689.24. As used in Sections 1689.20 to 1689.23, inclusive:

(a) “Seminar sales solicitation contract or offer” means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made using selling techniques in a seminar setting in an amount of twenty-five dollars (\$25) or more, including any interest or service charges. “Seminar sales solicitation contract or offer” does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto, *and does not include any contract or offer to purchase a time-share estate or time-share use in a time-share project, as defined in Section 11003.5 of the Business and Professions Code, if the time-share project consists of 12 or more time-share estates or time-share uses, is or will be improved with structural dwelling places, and if the time-share estates or time-share uses have terms of five years or more, nor does it include any contract or offer to purchase a good or service that is a short-term product, an exchange program, or an incidental benefit, as defined in Sections 11003.5 and 11003.6 of the Business and Professions Code, if the contract or offer, with respect to a short-term product, is subject to Section 11003.6 of the Business and Professions Code, and, with respect to an incidental benefit, if the contract for the incidental benefit is subject to the provisions of Section 11024 of the Business and Professions Code,* or any contract which contains a written and dated statement signed by the prospective buyer stating that the negotiation between the parties was initiated by the prospective buyer.

(b) “Seminar setting” means premises other than the residence of the buyer.

(c) “Goods” means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of the real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with a vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section



1 18008 of the Health and Safety Code, nor any goods sold with a  
2 mobilehome if either are sold under a contract subject to Section  
3 18036.5 of the Health and Safety Code.

4 (d) “Services” means work, labor and services, including, but  
5 not limited to, services furnished in connection with the repair,  
6 alteration, or improvement of residential premises, or services  
7 furnished in connection with the sale or repair of goods as defined  
8 in Section 1802.1, and courses of instruction, regardless of the  
9 purpose for which they are taken, but does not include the services  
10 of attorneys, real estate brokers and salesmen, securities dealers or  
11 investment counselors, physicians, optometrists, or dentists, nor  
12 financial services offered by banks, savings institutions, credit  
13 unions, industrial loan companies, personal property brokers,  
14 consumer finance lenders, or commercial finance lenders,  
15 organized pursuant to state or federal law, which are not connected  
16 with the sale of goods or services, as defined herein, nor the sale  
17 of insurance which is not connected with the sale of goods or  
18 services as defined herein, nor services in connection with the sale  
19 or installation of mobilehomes or of goods sold with a mobilehome  
20 if either are sold or installed under a contract subject to Section  
21 18036.5 of the Health and Safety Code, nor services for which the  
22 tariffs, rates, charges, costs, or expenses, including in each  
23 instance the time sale price, is required by law to be filed with and  
24 approved by the federal government or any official, department,  
25 division, commission, or agency of the United States or of the State  
26 of California.

27 (e) “Business day” means any calendar day except Sunday, or  
28 the following business holidays: New Year’s Day, Washington’s  
29 Birthday, Memorial Day, Independence Day, Labor Day,  
30 Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas  
31 Day.

32 ~~(f) Nothing within the meaning of any definition in this section~~  
33 ~~applies to any contract or offer to purchase a time-share estate or~~  
34 ~~time-share use in a time-share project, as defined in Section~~  
35 ~~11003.5 of the Business and Professions Code, if the time-share~~  
36 ~~project consists of 12 or more time-share estates or time-share~~  
37 ~~uses, is or will be improved with structural dwelling places, and the~~  
38 ~~time-share estates or uses have terms of five years or more, nor to~~  
39 ~~any contract or offer to purchase a good or service that is an~~



1 ~~exchange program or an incidental benefit, as defined in Section~~  
2 ~~11003.5 of the Business and Professions Code.~~

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